

UNITED STATES DISTRICT COURT
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MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

2017 JUN 23 PM 4:13

JACQUELINE E. BANKS,)

Plaintiff, DEBRA P. HACKETT, CLK)
U.S. DISTRICT COURT)
MIDDLE DISTRICT ALA)

v.)

UNITED STATES OF AMERICA; through)
its agents, servants and employees or agents)
servants and employees of its agency;)
UNITED STATES POSTAL SERVICE;)

Defendants.)

Civil Action No.: 2:17-cv-406

JURY TRIAL DEMANDED

COMPLAINT

COMES NOW Plaintiff, Jacqueline E. Banks, by and through the undersigned counsel, and complains against Defendant, United States of America, specifically its agency the United States Postal Service, as follows:

JURISDICTION

1. This action arises under the Federal Tort Claims Act, § 2671 through § 2680 of Title 28 of the United States Code (28 U.S.C. §§ 2671-2680). This Honorable Court is vested with jurisdiction pursuant to § 1333(b) of Title 28 of the United States Code (28 U.S.C. § 1333(b)). The acts or omissions to act complained of herein below occurred in the territory encompassed by the jurisdiction of the United States District Court for the Middle District of Alabama.

PARTIES

2. Plaintiff, Jacqueline E. Banks ("Banks"), is over the age of nineteen (19) years and was, at all times relevant hereto, a citizen and resident of Montgomery County, Alabama.

3. Banks brings this cause of action against Defendant, United States of America, by and through its agents, servants and employees and/or by and through the agents, servants and/or employees of the United States Postal Service, an agency of Defendant ("Government"). The Post Master General and/or the Officer-in-Charge, and/or other agents to whom the requisite authority has been delegated, are responsible, through acts or omissions to act, for the negligence and/or wantonness complained of herein, which individuals' acts impute liability upon the United States of America.

EXHAUSTION OF ADMINISTRATIVE REMEDIES AND REQUIREMENTS

4. Banks has exhausted her administrative remedies and/or requirements. Specifically, in or around August 2016, Banks submitted claims of property damage and physical injury, based upon the allegations herein this Complaint, to the Government. On January 19, 2017, the Government denied Bank's administrative claim. Banks files this Complaint within the six (6) months of the date upon letter of denial or within six (6) months of January 19, 2017 and such filing is timely pursuant to 28 U.S.C. § 2401(b).

COUNT ONE

5. Plaintiff adopts and incorporates herein each of the foregoing paragraphs.

6. On or around December 29, 2015, Banks parked in the customer parking lot for the United States Post Office located on Winton Blount in Montgomery, Alabama, exited her vehicle, walked in the direction of the Post Office, and thereafter tripped on a piece of wire and/or rebar that protruded from a concrete wheel stop at the end of a designated parking space. Banks was caused to fall to the ground.

7. The concrete wheel stop and/or a section thereof the concrete wheel stop was cracked, damaged and missing, and thereby caused the wire and/or rebar to protrude several inches from the existing and/or remaining concrete structure of the wheel stop, and into an area designated and/or commonly used for access to the deposit and retrieval public areas of the Post Office, which designation and/or common use is and was known to the Post Office.

8. Banks lifted herself from the customer parking lot into her car and attempted to drive to the Emergency Room; however, within only a few feet of departure from the parking space, Banks lost consciousness, veered from the parking lot of the Post Office, crossed over the grass adjacent to the parking lot, and struck a fixed object, believed to be a pole base, situated on the Post Office's property.

9. The customer parking lot at the Post Office was, at all times relevant hereto, unreasonably dangerous, lacked adequate and proper maintenance, and was in disrepair. The Government negligently and/or wantonly failed to maintain the parking lot to the extent that customers and patrons, including Banks, were at great risk of harm and injury upon each visit to deposit and/or retrieve mail.

10. The Government had a duty to provide a safe and maintained area for customers and patrons, including Banks, to park and enter the Post Office to deposit and retrieve mail. The Government negligently and/or wantonly failed to maintain a safe and maintained area such that customers and patrons, including Banks, were at great risk of harm and injury upon each visit.

11. The Government knew or should have known that lack of adequate and proper maintenance and/or that its failure to maintain the integrity and safety of the customer parking lot and related appurtenances posed a great risk of harm and injury to its customers and patrons, including Banks.

12. By failing to provide a safe, maintained and accessible area for customers and patrons, including Banks, to deposit and retrieve mail, the Government failed to comply with and therefore violated 39 C.F.R. § 211.2, *et seq.*, and/or the Regulations of the Postal Service, 36 C.F.R. § 1191, *et seq.*, and/or the Architectural Barriers Act “Standards for Facility Accessibility”, and/or the Postal Operations Manual, Issue 9.

13. As a proximate result of the Government’s negligence, wantonness and/or breach of the aforementioned standards, Banks was seriously harmed and injured.

WHEREFORE, Banks demands judgment against each Defendant, jointly and severally, in an amount to be ascertained by the trier of fact, together with interest prospectively from the date of injury and the costs of this proceeding.



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JURY DEMAND

Pursuant to the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury on all claims herein this action.

Respectfully submitted,



OF COUNSEL

REQUEST FOR CERTIFIED MAIL SERVICE BY CLERK

Plaintiff hereby requests that the Clerk of this Honorable Court serve Defendants by certified mail, return receipt requested.



OF COUNSEL

PLAINTIFF'S ADDRESS:

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